



# News Release **JEFF SESSIONS** UNITED STATES SENATOR | ALABAMA

## Waivers And Exemptions In Gang Of Eight Plan Would Permanently Hamstring Enforcement

Not only does the Gang of Eight's bill allow the Secretary of Homeland Security to decide for herself whether weak, undefined enforcement measures ("triggers") are met, but it grants her unprecedented discretion in determining whether an alien is allowed to enter the country, whether future illegal aliens can be removed from the country, and who is eligible for amnesty in the bill. The net effect of these waivers and discretionary authority is to permanently hamstring and undermine law enforcement and create a new, endless bureaucracy surrounding immigration proceedings. These provisions, carefully crafted by special interest immigration attorneys, serve only one purpose: to weaken current law and make future enforcement impossible.

- For instance, this bill would allow the Secretary to overlook convictions for crimes related to gang activity, child abuse, domestic violence, and drunk driving in determining whether an individual is eligible for admission to the country if the person's admission serves "humanitarian purposes," "ensure[s] family unity," or is in the "public interest." These standards are so broad as to render most current legal restrictions meaningless.
- S. 744 would also grant the Secretary of Homeland Security and Immigration Judges enormously broad discretion to block the removal of any future legal and illegal aliens—including convicted criminals—where such a removal is not in the "public interest" or would result in mere "hardship" to the alien's U.S. citizen or permanent resident parent of a child, spouse or child.
- The bill would allow the Secretary of Homeland Security, when determining whether an individual is eligible for amnesty, to overlook that individual's convictions for the following types of offenses that would otherwise render the alien inadmissible to the United States: a crime involving moral turpitude (which could include theft, child abuse, domestic violence, and a variety of other serious crimes); a controlled substance (non-trafficking) offense; and multiple drunk driving offenses (which, interestingly, is added as a ground of inadmissibility elsewhere in the bill), if the Secretary determines that granting the individual amnesty would serve "humanitarian purposes," "ensure family unity," or is in the "public interest."
- In reviewing an application for the amnesty provided in the bill, the Secretary is explicitly barred from considering: document forgery, skipping court-ordered removal hearings, making false statements to authorities, multiple illegal re-entries, or felony arrests that did not result in convictions.

- Even those who have been deported are eligible to apply for amnesty under the bill. Current law requires the Attorney General to automatically remove an alien who re-enters the U.S. after being deported. Under S. 744, however, this would no longer apply to future deportees who re-enter the U.S. before reaching 18 years of age. It would also no longer apply to any deportee—regardless of age—whose removal the Secretary determines would not be in the “public interest” or would result in “hardship” to the alien’s U.S. citizen or permanent resident parent, spouse, or child. For instance, under this bill, an alien who was removed after committing a deportable offense—such as assault or a crime involving moral turpitude—and returns before the age of 18 is no longer deportable, as he would be under current law.
- S. 744 provides that an alien is ineligible for amnesty if he has been convicted of three or more misdemeanor offenses on different dates, other than minor traffic offenses (a term which is not defined). That means that an alien is eligible for amnesty even if he or she has been convicted of two misdemeanor criminal convictions, or even a theoretically unlimited number of misdemeanor criminal convictions, as long as the convictions occurred on the same date. That also means that an alien who committed a serious felony offense but had his charges reduced to a misdemeanor as the result of a plea bargain is eligible for amnesty. Despite these already lax standards, the Secretary is given authority to waive the bar for even those with multiple convictions.
- S. 744 also provides that Immigration Judges have the authority to appoint attorneys to illegal aliens at government expense. The appointment of an attorney at government expense is unprecedented outside of the criminal court context.

Rather than enhance border security and ensure future enforcement of the law, S. 744 rewards illegal aliens with criminal records, and creates an incentive for people to illegally enter the United States in the future. In essence, if S. 744 passes as currently drafted, the following scenario is not at all unlikely: An individual who has previously been convicted of a crime and subsequently removed from the United States illegally crosses the border at one of the six sectors not addressed by S. 744. The United States Border Patrol apprehends that individual, and rather than simply expediently removing him from the United States, places that individual into removal proceedings before an Immigration Judge. The Immigration Judge appoints an attorney for the alien at taxpayer expense. The attorney assists the alien in demonstrating that any future removal would cause mere “hardship” to a qualifying relative. The Immigration Judge terminates the case and permits the individual to stay in the United States—presumably indefinitely.

Quite opposite from creating the “toughest” enforcement in history as the proposal sponsors’ promised, this legislation would devastate enforcement and officer morale and disastrously undermine the rule of law for years to come.